

Ordinance Modifications Summary

Purpose of Text Amendments

Update city ordinances to better meet the needs of the Belmont community, and to be consistent with the General Plan. To that end, the amendments should: a) Result in regulations that are impact based; b) Include objective criteria, whenever feasible; and c) Include a regulatory review process that is commensurate with the scope of the project.

As the vast majority of entitlement applications are requests for Single Family Design Review (SFDR), these amendments are principally focused on Zoning Ordinance and Tree Ordinance provisions that relate to the SFDR process (i.e., SFDR thresholds, parking requirements/parking upgrades for single family homes, and tree removal associated with SFDR). Amendments were made largely within the framework and layout of the existing Ordinances, except when infeasible.

Belmont Zoning Ordinance (BZO) Overview/Summary

Amendments will occur to BZO Sections 2 – *Definitions*, 4 - *Residential*, 8 – *Off-street Parking and Loading*, 9 – *General Regulations*, 13A – *Single Family and Duplex Residential Design Review*, and 24 – *Secondary Dwelling Units*.

The Single Family and Duplex Design Review (SFDR) process will include levels of review consistent with the scope of the project, and will include additional objective review criteria for upper-story additions. Single family parking requirements will be primarily based on parking demand. The total floor area permitted for single family homes will be based on lot area and slope, and the stand-alone floor area cap will be raised. Setback requirements will be updated, and will be made more flexible in order to facilitate site access and accommodate extensions of legal, non-conforming side yard setbacks. Definitions will be modified or added for consistency with the other changes to the ordinance.

BZO Section 13A (*Single Family and Duplex Design Review*)

Amendments occurred to the Purpose Statement, Thresholds for Review, Application Requirements, Review Procedures and Standards (Findings) of this Section, as follows:

13A.1 - Purpose

The purpose statement is the starting point from where the rest of the ordinance is derived; the text of the ordinance is written and organized to achieve the purpose statement (intent of the ordinance).

A new purpose statement has been created, as follows:

“The regulations in Section 13A establish standards that allow residential property owners to develop their property while ensuring that the development is in harmony with and preserves the City’s tranquil, safe and desirable neighborhoods. These regulations, as augmented by the

Residential Design Guidelines and together with Section 4 are intended to provide a predictable and consistent framework for review of residential projects.”

The first part of the statement indicates the intent of Section 13A is to establish standards that allow residential property owners to develop their property, consistent with the City’s Vision Statement. The second part of the statement informs the reader that Section 13A is intended to be used in conjunction with the Residential Design Guidelines and the objective development standards in Section 4 (*Residential*). This would include existing standards for floor area, setbacks and height, and new objective standards for bulk.

Thus, the new purpose statement explains to the reader why the ordinance was created, and how it will be used to review projects. This amendment provides direction to staff, the applicant, and the review authority for evaluation of SFDR projects, and creates greater certainty in the development review process for applicants and home owners.

13A.3 Application

Minor modifications and clarifications to SFDR submittal requirements will occur in this section. In addition, a pre-application meeting with planning staff will be required for projects within Tier 1 and Tier 2 to ensure a more efficient and timely review process (i.e., to reduce the number of resubmittals associated with completeness review).

13A.4 Review Procedures

The ordinance currently requires SFDR by the Planning Commission for additions of 400 sq. ft., and for development projects of any size that endanger a protected tree. The 400 gross sq. ft. threshold is not justified by any particular impact and an SFDR is also required for ground floor additions or underfloor area within the existing footprint. No tiered system is currently available for review of additions with the potential for greater or lesser impacts (i.e., upper vs lower floor, etc.). Tree removals can trigger SFDR review before the Planning Commission for very small additions that would normally be processed with a building permit or through an administrative review.

The ordinance amendments establish a tiered system of thresholds and review authority for SFDR. There are three tiers (1-3), and project complexity, and potential project impacts increase with each Tier: Tier 1 represents projects of the least complexity and with least potential for project impacts (small ground floor additions with minimal site disturbance); Tier 2 represents projects that have a moderate level of complexity and a moderate potential for impacts (large ground floor additions and small upper floor additions); and Tier 3 represents projects of the greatest complexity and with the most potential for project impacts (new homes and large second floor additions). The specifics of the Tier system are described in the table on page 3 of this attachment.

SFDR - Tier Review Table

Tier	Project Characteristics ¹	Reviewing Authority
1	<ul style="list-style-type: none"> • Ground floor additions up to 499 sf. cgfa, with top of the addition plate height 12 feet or less, and top of the new roof 18 feet or less, as measured from finished grade. • Enclosure of carports & additions of any size that do not increase the foot print of the home (i.e., underfloor and attic areas that are made habitable) 	Community Development Department (CDD)
2	<ul style="list-style-type: none"> • Ground floor additions not consistent with Tier 1 • Ground floor additions from 500 sf to 999 sf. cgfa • Upper floor additions up to 499 sf. cgfa • Combination of upper and lower floor addition up to 999 sf. cgfa. 	Zoning Administrator (ZA)
3	<ul style="list-style-type: none"> • New Single Family Homes • Grading more than 500 cubic yards • Disturbance of 6,000 sf. or more of site area • Upper floor additions of 500 sf. cgfa. or more • Combination of upper and lower floor additions of 1,000 sf. cgfa. or more • SFDR with other PC level entitlements 	Planning Commission (PC)
¹ The addition square footages in are cumulative gross floor area (cgfa) as defined in Section 2.48.1		

The level of review associated with each tier (Tier 1- Community Development Department, Tier 2 - Zoning Administrator, or Tier 3 - Planning Commission) is also commensurate with the project complexity and the potential for project impacts. In addition, the scope (time/cost/extent) of the review process will be commensurate with the scope of the project (see discussion under 13A.4).

Objective criteria for bulk will be added for review of upper story additions (see Exhibit 1 – Samples of Objective Criteria), and tree removal will be assessed by the review authority for the associated Tier of the project (see discussion under BZO Section 4 - Residential, and the Tree Ordinance).

Section 13A.4 will also be amended to identify neighborhood outreach, public notice, and public hearings requirements for SFDR projects; in addition, this section will indicate the requisite appeal authority and procedure for the SFDR Tiers identified in Section 13A.2. These requirements are summarized in the table below on page four of this attachment.

Table 13A.4a – Review Procedure

Tier	Neighborhood Outreach	Project Notice	Public Hearing	Appeal
1	Not Required	Not Required	Not Required	Planning Commission
2	Required all projects	Notice to Bordering Property Owners	Upon Request	Planning Commission
3	Required all projects	Public hearing notice per Section 11.4.1	Required	City Council

As previously discussed, the scope (time/cost/extent) of the review process will be commensurate with the scope of the project. As such, the following provisions have been included within the ordinance to streamline the review process:

Neighborhood Outreach

Neighborhood outreach is an effective way to gather feedback and address neighbor’s concerns, before the formal submittal of an application. Neighborhood outreach is currently recommended for all SFDR projects; however this recommendation is not codified, and the recommended outreach area (300-foot radius of the subject property) is well beyond the potential impact area for single family residential construction.

The amendments to the ordinance will require neighborhood outreach for Tier 2 and Tier 3 projects. This outreach will be limited to properties that are more likely to be impacted by the project (bordering properties). Definitions for Neighborhood Outreach and Bordering Properties will be included in the BZO (see discussion under BZO Section 2 – Definitions).

Mandatory Pre-application Meeting

As previously discussed, a pre-application meeting with planning staff will be required for projects within Tier 2 and Tier 3 to ensure a more efficient and timely review process.

Notice

Tier 1 projects can include the enclosure of existing space within the home, and very small additions. These types of projects are often not discernable beyond the confines of the project site. Thus, no public notice will be required for Tier 1 projects. Tier 2 projects have the ability to impact the applicant and bordering property owners. For these more potentially impactful Tier 2 projects a “Notice of Intent” of Zoning Administrator (ZA) action will be provided to bordering property owners. The ZA notice will allow ten days for neighbor comment and the ability for bordering neighbors to request a public hearing. Tier 3 projects will follow existing public notice and hearing procedures.

Appeals

The current regulations allow appeals by any person aggrieved or affected by any decision. There is no requirement that the aggrieved party live near the project site, or within the City of Belmont.

The amendments to the ordinance will allow appeals by members of the public potentially affected by the project. As previously discussed, Tier 1 projects are often not discernable beyond the confines of the project site. As such, Tier 1 projects will be appealable only by the applicant. Consistent with notice requirements and the potential for impacts, Tier 2 projects will be appealable only by the applicant and bordering property owners. Tier 3 project appeals will remain unchanged by these ordinance amendments.

The review process for the individual tiers is anticipated to be as follows:

Tier 1 Process (two weeks to 45 days)

- Project reviewed based upon Residential Design Guidelines (RDG) checklist, and SFDR Standards (Findings).
- Staff reviews proposed building exterior for consistency with existing building's colors/materials, window design, and roof forms.
- Staff conducts site visit for carport enclosures and additions beyond footprint.
- Fee to cover staff time charged on an hourly rate for projects that require review beyond typical building permit plan check.

Tier 2 Process (30 to 60 days)

- Applicant must submit a formal application, including geotechnical review (if required).
- Mandatory pre-application meeting with staff required (fees to be determined).
- Staff reviews project based upon Residential Design Guidelines (RDG) checklist, and SFDR Findings.
- Staff reviews project based upon objective criteria identified in a companion document to the BZO (i.e., upper level step backs, daylight plane, a prescribed level of articulation, etc.).
- Staff conducts site visit and prepares report for ZA
- Fees to be determined

Tier 3 Process (60-90 days)

- Applicant must submit a formal application, including geotechnical review (if required).
- Mandatory pre-application meeting with staff required (fees to be determined).
- Staff reviews project based upon Residential Design Guidelines (RDG) checklist, and SFDR Findings.

- Staff reviews project based upon objective criteria identified in a companion document to the BZO (i.e., upper level step backs, daylight plane, a prescribed level of articulation, etc.).
- Staff conducts site visit and prepares report for PC
- Existing SFDR fees apply

13A.5 Standards for Approval

The current ordinance includes both technical and design-related standards (findings) for approval of SFDR. Design-related standards include direct involvement by the decision maker (i.e., review of the project plans in consideration of a particular standard or finding).

Technical standards are not intended for direct review by the decision maker, as they involve review by qualified technical staff and consultants. For example, when a new home is built a geotechnical report, storm-water checklist, and a preliminary grading and drainage plan are required. The geotechnical report is peer reviewed by the city's consulting geologist, and geotechnical approval of the detailed working drawings is required prior to grading/building permit issuance; buildings and retaining walls are plan checked by consulting structural engineers for compliance with building code, prior to building permit issuance. The decision maker is not expected to provide technical analysis, but rather ensure that the analysis occurred as part of the process.

As such, the ordinance amendments include consolidation and rewording of the technical standards. In addition, the design-related standards have been modified to allow for conditional approval. As previously noted, projects will continue to be reviewed for consistency with the RDG, and additional objective review criteria for upper-story additions will assist decision makers in evaluating bulk. Overall, the revised standards for approval will result in a more objective design review process. The revised standards are provided below.

Design Review Standards

- (a) The buildings and structures shown on the site plan will be:
 - (1) Designed to be compatible with any existing development on the site;
 - (2) Located and designed to minimize disruptions of existing public views, and to protect the profile of prominent ridgelines.
- (b) The overall site and building plans will achieve an acceptable balance of the following factors:
 - (1) building bulk,
 - (2) grading, including
 - (A) disturbed surface area, and

- (B) total cubic yards, cut and fill.
- (3) The aesthetic impacts of hardscape as viewed from a public vantage point.
- (c) All proposed accessory and support features, including driveway and parking surfaces, underfloor areas, retaining walls, utility services and other accessory structures will be integrated into the overall project design.
- (d) The proposed landscape plan will incorporate:
 - (1) Native plants appropriate to the site's environmental setting and microclimate, and
 - (2) Appropriate landscape screening of proposed accessory and support structures.
- (e) The project will be in substantial compliance with the Residential Design Guidelines.
- (f) City staff and consultants have provided technical review and conditions of approval have been adopted, as applicable, regarding project-related grading, drainage, storm-water runoff, vehicular and pedestrian access, site stability, structural encroachments, and construction impacts.

BZO Section 8 – (*Off-street Parking and Loading*)

Amendments will occur to the single family parking requirements for the number of parking spaces, the size and type of parking spaces, the location of required parking spaces, and upgrade of parking.

Single Family Parking Requirements

Current parking requirements for single family homes in Belmont (two covered and two uncovered) are not consistent with vehicle ownership by household (The 2012 American Community Survey by the US Census Bureau and CLR Search indicate that 66-76 % of Belmont households have two or fewer vehicles). In addition, current thresholds for parking upgrades do not relate to specific impacts (600 sq. ft. non-bedroom addition), and modifications that do not change the net number of bedrooms still require an upgrade.

The current upgrade threshold that any modification to a home of 3,000 sq. ft. or with four or more bedrooms is also not connected to an impact, as floor area or bedrooms may not be added (i.e., kitchen expansions, and remodeling triggers parking upgrades).

The bedroom definition is too broad, and does not allow for enlargement of the public spaces of the home (i.e., expanded great room areas or kitchen alcove seating areas, etc.).

The ordinance amendments base single family parking standards and parking upgrade requirements on parking demand (i.e., additional dwelling units and bedrooms), and add flexibility to the requirements for the type, size and location of parking facilities. A new

definition for bedroom is also included to differentiate bedrooms from other rooms in the house (See discussion under Section 2 – Definitions). The new single family parking requirements are identified below.

Parking – BZO Section 8

Section 8 (*Off-street Parking and Loading*) - Amendments would occur to the single family parking requirements for the number of parking spaces, upgrade of parking, the location of required parking spaces, and the size and type of parking spaces, as follows:

Number of Parking Spaces

- (1) New homes must have a total of 4 parking spaces, 2 of which must be covered.
- (2) Existing Homes.
 - (A) Existing homes with an addition that expands the bedroom count of the principal unit, or adds a second unit must have the parking spaces specified in the Table below.
 - (B) Existing homes with one or more garage spaces may not reduce the number of garage spaces to fewer than 2.
 - (C) Existing homes without a covered space may use a carport for required covered parking.

Parking Space Requirements for Additions (Upgrade of Parking)

Home with addition	Required Parking # = total required spaces (#) = required covered spaces
Five Bedrooms or more	3(1)
Four Bedrooms	3(1)
Three Bedrooms	2(1)
2 nd unit	+1 up to 4

Parking Location

Uncovered parking spaces would be permitted to extend into the unused portion of the right-of-way up to the outside edge of street improvements, such as sidewalk, provided they would not obstruct any existing or possible future street improvements that are necessary for public use (i.e., future sidewalk, curb or gutter installation, utility needs, etc.), as determined by the Public Works Director.

Size and Type of Parking Spaces

Number of Vehicles	Orientation	New Garage	Existing Garage New or Existing Carport Uncovered Parking
1	N/A	10' x 20'	8.5' x 18'
2	Side-by-side	20' x 20'	17' x 18'
2	Tandem	10' x 40'	8.5' x 36'

BZO Section 4 – (Residential)

An amendment would occur to the measurement of front yard setbacks, additional objective review criteria for upper-story additions would be added, and the cap on total floor area permitted for single family homes within the R-1 zoning districts would be raised to 6,000 square feet. Existing caps in the HRO-1 Districts would not be modified.

Measurement of Front Yard Setbacks

Current front setback requirements (*Setback Averaging*) are outdated and convoluted. Setback Averaging requires that applicants calculate the average front setback within 400 feet on both sides of their property and the same side of the street. The intent of this requirement is for all of the homes on the street to be aligned along similar front setbacks. This provision is appropriate for large plat subdivisions along straight/flat roads, where as many of the roads in Belmont are curved and not flat.

The ordinance amendments will specify right-of-way (R-O-W) width as the basis to calculate front setback. A 20-foot front setback will be required for 40-foot wide R-O-Ws, and a 15-foot front setback will be required for 50-foot or wider R-O-Ws. This provision will address the unique roadway and topographic conditions in Belmont, while allowing for a consistent application of front setback requirements. In addition, in areas where the roadway is narrower, homes will be setback farther from the street, which will assist in reducing the perception of bulk.

Objective Review Criteria for Bulk

While the RDG provided guidance for review of two-story homes and upper story additions, the current ordinance does not include objective (quantifiable, measureable) criteria for the review of bulk.

The ordinance amendments will include additional objective development criteria for evaluating bulk for two-story homes, upper story additions, and specified increases in plate and roof height. The additional development criteria (i.e., upper level step backs, daylight plane, a prescribed level of articulation, etc.) will be contained in the Residential Design Criteria, a companion document to the BZO. This document will be adopted by the City Council.

Floor Area Maximum

Maximum floor area in residential zones is derived by multiplying net lot area by the Floor Area Ratio (FAR) corresponding to the slope of the lot, as provided in the BZO. However, floor area is capped at 4,500 square feet in the R-1E and R-1H zoning districts, and 3,500 square feet in all other R-1 zoning districts, regardless of lot size and slope.

Review of eight surrounding jurisdictions (Redwood City, Burlingame, San Mateo, San Carlos, Millbrae, San Bruno, Atherton, and Menlo Park) found that only two included a maximum cap on floor area: San Mateo limits floor area to 6,000 sq. ft., and Burlingame limits floor area to 8,000 sq. ft. (excluding accessory structures).

The numerical caps on floor area in the BZO are arbitrary, and do not correct for any identifiable development impact. However, it is possible that the construction of very large homes could occur without a cap. Therefore, the amendments to the ordinance raise the existing caps to 6,000 square feet (the lowest cap for the eight surrounding jurisdictions).

BZO Section 2 – (Definitions)

Definitions will be added and modified for consistency with the substantive changes to the BZO. Definitions for Bordering Properties, Residential Design Criteria, Daylight Plane, Second Story Setbacks, Prescribed Articulation, and Public Views will be added.

In addition, definitions will be modified as follows: Lot Width Average will be revised for consistency with the Subdivision Ordinance. The reference to the 400 sq. ft. SFDR threshold will be removed from the Residential Design Guidelines definition. The definition of a bedroom will be modified to exclude areas of the home that are clearly incidental to the other living spaces of the home, left open to adjacent living areas of the home, and for rooms accessed solely through bedrooms of the home.

BZO Section 9 – (General Regulations)

Amendments are proposed to the provision requiring access from public streets, and for setback requirements for driveway bridges, access decks, and stairs. In addition, a provision was added to allow the extension of legal, non-conforming side yard setbacks.

Public Streets

A provision in the BZO requires that development be limited to lots with access to a public street or with an existing access easement to a public street. New access easements and private roads are effectively prohibited. This provision does not correct for any identifiable development impact, as fully conforming site access meeting fire department requirements could be provided via an access easement or private street. In addition, development occurring on lots with access from private roads or easements can be beneficial to the city as relief is provided from future roadway maintenance responsibilities.

The amendments will remove the requirement that development occur on a public street.

Setback Requirements

The current ordinance requires a Variance for front yard structures over six feet in height, and stairs and landings in side yard setbacks. In addition, the ordinance limits the encroachment of entry decks into the required front and rear yard. These provisions result in difficulty providing necessary ingress/egress for occupants.

The amendments would allow flexibility for setback encroachments providing access. Stairs/landings meeting minimum building code regulations for width, and driveway bridges for down sloping lots which are necessary to gain site access will be permitted.

Continuation of Non-conforming Setbacks

The existing ordinance prohibits applicants from continuing building lines along non-conforming setbacks, without Variance approval. This prohibition results in additional construction costs and odd floor plan layouts, and does not correct for any identifiable development impact.

The amendments would allow continuation of a non-conforming side yard setback provided that the non-conforming setback is not increased, and a minimum of a five foot setback is maintained for the interior side lot line and a ten-foot side yard setback is maintained for an exterior side yard setback (street side).

BZO Section 24 – (Secondary Dwelling Units)

Amendments will occur for consistency with the SFDR tier process and revised parking standards. The thresholds requiring a Conditional Use Permit (CUP) for second units and the provision restricting the size of second units based upon a percentage of the floor area of principal dwelling will be modified.

Thresholds for a CUP

The thresholds requiring a Conditional Use Permit (CUP) for second units will be modified: Currently a CUP is required to construct a second unit on lots less than 8,000 sq. ft.; this threshold will be reduced to lots less than 5,000 sq. ft., (the minimum conforming R-1 lot size). In addition, A CUP will no longer be required for second units greater than 640 sq. ft. Secondary units will be evaluated consistent with the tiered review thresholds in Section 13A (SFDR) and state requirements.

Maximum Size of Second Units

The maximum size second unit will be based upon a percentage of the principal dwelling will be raised from 30% to 40%, but will remain capped at 1,200 sq. ft. and two bedrooms.

Overall, these modifications will result in a Secondary Dwelling Unit Ordinance that promotes more efficient use of the City's existing housing stock. In addition, the modifications will be consistent with the intent of the City's Housing Element to remove barriers to the creation of affordable housing.

Belmont Tree Ordinance

Current Issues

A number of deficiencies were identified in the current Tree Ordinance, as follows:

- The Tree Ordinance is too broad, and promotes the maintenance of non-native, invasive tree species. Protected Trees are currently defined as any tree equal to or greater than 10 inch DBH. No premium is given to desirable trees over undesirable trees.
- Development Review aspects (removal fees and replanting) focus on Biomass concerns to the exclusion of other factors (i.e., non-native trees, invasive tree species, trees in poor condition, and trees that are fire hazards).
- Damage is very broadly defined to include any tree impact outside of pruning to increase the health of the tree.
- There are no findings (basis for approval/denial) for tree removal permits associated with development review.
- PC discretion is too broad. The current ordinance allows the Commission to impose conditional requirements for the granting of a tree removal permit including any or all of the following: 1) tree replacement of up to 3:1 for protected tree removal and 1:1 for removal of protected size Acacia, Eucalyptus Globulus, or Monterey Pine trees; 2) payment of tree removal fees in accordance with the latest adopted fee schedule; 3) continued tree maintenance for new trees and replacement plantings; and 4) payment of a security deposit for replanting when five or more protected trees are removed.

Tree Ordinance Amendments

The Tree Ordinance will be reorganized such that all of its sections will be modified. The substantive amendments to the ordinance are provided below.

Purpose - The purpose of the tree ordinance will be modified to identify the many benefits of trees, while acknowledging that certain trees, due to their species, location, health and condition, etc., contribute more to the urban forest and provide more public benefits than others. It will also be acknowledged that it is in the public interest to create an efficient and cost effective tree removal permit process for unsafe or unhealthy trees, trees in poor condition, non-native invasive trees, trees that cause a significant fire hazard, and trees that adversely impact utilities or cause significant property damage.

Section 25-2 (Definitions) - Definitions will be included for Heritage Trees, Arborist Report, Certification Letter, Dead Trees, Excessive Pruning, Conforming Use, and Standard Tree Protection Measures. Several of these new definitions (Arborist Report and Standard Tree Protection Measures) make reference to documents, which will be created by the Parks and Recreation Department and provided at a later date.

Protected Tree

The current Tree Ordinance defines a Protected Tree as any tree equal to or greater than 10 inch DBH. The proposed amendments would define Protected Trees to include Heritage Trees as oak and redwood trees of 10 inch DBH or greater, city trees, trees required as replacement plantings, and large diameter trees (any tree of 18 inch DBH or greater except Eucalyptus, Monterey Pine, Palm, and Acacia).

Damage & Severe Damage

The current ordinance defines “*Damage*” to include any tree impact outside of pruning to increase the health of the tree, and allows for the collection of a tree removal fee for such damage. The proposed amendments would replace the definition of Damage with a definition of “*Severe Damage*” which would mean any action undertaken which causes or may cause death or significant injury to a tree or its roots, or which places the tree in an irreversible state of decline.

Section 25-6 (*Permit Review Procedure*) - The Community Development Department currently administers tree removal permit(s) when the removal is associated with an application for a building permit, variance, design review, or any other development entitlement. The Parks and Recreation Department administers all tree removal permit(s) when not associated with a building permit, variance, design review, or any other development entitlement that is required (i.e., property maintenance issues). The Tree Ordinance is proposed to be administered consistent with tiered review system proposed for Section 13A of the Zoning Ordinance.

Section 25-8 (a) - (*Criteria for Permit Determination*) – The current ordinance does not include standards for review (findings - basis for approval/denial) for tree removals associated with development review projects (Planning Commission review). The proposed amendments would require the reviewing authority to base its determination to approve, conditionally approve or deny an application for a tree removal permit on a balancing of the criteria provided in the table below.

This balance would occur with both criteria supporting removal and criteria supporting retention of trees. Discretion would be applied in that all criteria would not necessarily be weighted equally.

Criteria for Permit Determination (findings)

Criteria Supporting Removal	Criteria Supporting Retention
<ol style="list-style-type: none">1. The tree is: a) in poor condition; b), at the relative end of its life span of the particular species; c) diseased or infested beyond reasonable attempts at remediation; d) has poor structural integrity; e) is in danger of falling; or f) poses a safety hazard.2. The particular tree species is undesirable due to characteristics such as invasiveness, tendency toward limb	<ol style="list-style-type: none">1. The tree is located outside of the developable area of the property.2. The tree and its location contribute substantially to the aesthetic appeal of the property or the neighborhood.3. The effect of the requested tree removal on the remaining number, species, size and location of existing trees on the site and in the area, including trees

<p>failure, and fire hazards.</p> <p>3. The tree is damaging or interfering with existing structures site improvements and utility services.</p> <p>4. Removal of the tree is needed in order to construct improvements or otherwise allow conforming use of the property.</p> <p>5. Proximity of the tree to existing or proposed structures.</p>	<p>mutually dependent on each other for survival, structural integrity or aesthetics.</p>
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Section 25-8 (b) Criteria for Permit Determination – The current ordinance allows the Planning Commission to impose conditional requirements for the granting of a tree removal permit including any or all of the following: 1) tree replacement of up to 3:1 for protected tree removal and 1:1 for removal of protected size Acacia, Eucalyptus Globulus, or Monterey Pine trees; 2) payment of tree removal fees in accordance with the latest adopted fee schedule; 3) continued tree maintenance for new trees and replacement plantings; and 4) payment of a security deposit for replanting when five or more protected trees are removed.

Under the proposed ordinance, the review authority could also require project conditions to mitigate for the loss of the tree, provided that these conditions reasonably relate to the particular impacts caused by the tree removal and are not disproportional to those impacts (see following Table).

Criteria for Permit Determination (conditions)

<p>(b) Conditions of Approval.</p> <p>(1) For each tree removed, the applicant must pay a removal fee or replant trees, or both, in accordance with a schedule adopted by the city council.</p> <p>(2) The reviewing authority may impose conditions of approval in addition to those in subsection when City staff has determined that the tree removal may substantially affect erosion or soil retention.</p> <p>(3) Conditions imposed by the reviewing authority must be reasonably related to the particular impacts caused by the tree removal and not disproportional to those impacts.</p>

Tree Removal Fees & Replanting

Current Fee Schedule and Tree Ordinance

The current Master Fee Schedule identifies the intent of tree removal fees and replacement plantings are to mitigate for trees lost to removal (i.e., deposit fees in the City Tree Planting and Establishment Fund). The cost of tree removal is dependent only on tree size (except for Acacia, Monterey Pine, and Eucalyptus). There is no distinction in the current ordinance for tree condition, location of trees on site, and trees that are fire hazards.

The current Tree Ordinance specifically states that replanting is intended to facilitate a bio-mass and tree canopy equivalent to that lost with the tree removal. No quantifiable criteria are provided within the Tree Ordinance to assist in determining the number of tree plantings to obtain an equivalent bio-mass/tree canopy; however, the size and number of replacement trees is required to be based upon the size, number, and species of the tree(s) removed, and the number and density of existing trees on the subject property.

In terms of replanting requirements, all protected size trees are treated equally under the current Tree Ordinance (except for Acacia, Eucalyptus Globulus, and Monterey Pine tree species). No other general exceptions or reductions in tree removal replanting amounts are given for non-native trees, invasive tree species, or trees in poor condition. In addition, there is no allowance specified with the Ordinance for trees removed as part of a required fire/vegetation management plan (i.e., for development occurring in Wildland Urban Interface areas).

Proposed Fee Schedule and Tree Ordinance

As previously discussed, the current Tree Ordinance allows the Commission to impose conditional requirements for the granting of a tree removal permit including tree replacement of up to a 3:1 ratio, and the payment of tree removal fees. However, there is no system for determining the value of the tree to be removed, and removal fees and replanting center on Biomass to the exclusion of other factors (i.e., non-native trees, invasive tree species, trees in poor condition, and trees that are fire hazards).

The amendments to the ordinance refer to a schedule to be adopted by the City Council, which identifies payments for each tree removed, or the replanting of trees, or both. This schedule will be based on the valuation of trees such that the total amount collected for tree removal fees, and the cost of the required mitigation plantings would not exceed the value of the tree(s) being removed. Furthermore, the valuation will not be based upon the value of the tree(s) for the individual property owner, but rather the proportion of the tree(s) value to the urban forest and the community as a whole.

Summary of Ordinance Modifications

The Parks and Recreation Department will develop the method for valuation for consideration by the City Council, prior to final adoption of the ordinance. Options will include a flat fee, or a fee based upon specified criteria, which may include but would not be limited to such factors as the size of the tree, its species, its location on the lot, and the health, condition, and life expectancy of the tree.